

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 08/24/2020

ESLAM HASSAN,

Plaintiff,

-against-

CAPTAIN AGARD, et al.,

Defendants.

19-CV-5764 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS this Court referred the case to Magistrate Judge Freeman on August 5, 2019, Dkt. 12;

WHEREAS Judge Freeman ordered Plaintiff to show cause no later than June 22, 2020, why the Court should not dismiss this action without prejudice for failure to prosecute, Dkt. 62;

WHEREAS Plaintiff has not responded to the Order to Show Cause, has continued to fail to respond to defense counsel, and has otherwise failed to participate in this litigation for the last five months;

WHEREAS Judge Freeman issued a Report and Recommendation (“R&R”) on July 21, 2020, recommending that this action be dismissed without prejudice, Dkt. 65;

WHEREAS Plaintiff has filed no objections to the R&R and a month has lapsed since entry of the R&R;

WHEREAS a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge,” 28 U.S.C. § 636(b)(1)(C);

WHEREAS to accept those portions of the report to which no objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record,” *King v. Greiner*, No. 02-CV-5810, 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009); and

WHEREAS this Court has reviewed the R&R for clear error and finds none;

IT IS HEREBY ORDERED that this Court ADOPTS the R&R in its entirety. Because the R&R gave the Parties adequate warning, *see* R&R at 2, Plaintiff's failure to file objections to the R&R precludes appellate review of this decision. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008). Accordingly, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and, therefore, permission to proceed in forma pauperis for purposes of appeal is denied.

The Clerk of Court is directed to dismiss this case without prejudice and to close this case on the Docket of the Court. The Clerk of Court is further directed to mail a copy of this order to Plaintiff.

SO ORDERED.

Dated: August 24, 2020
New York, New York



VALERIE CAPRONI
United States District Judge